

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE M. MITCHELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL CASE NO. 05-40201

CRIMINAL CASE NO. 00-50040

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

ORDER ACCEPTING REPORT AND RECOMMENDATION

Before the Court is Petitioner's motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, and the Report and Recommendation of the Honorable Donald A. Scheer, United States Magistrate Judge. Petitioner filed his motion on June 27, 2005. The Magistrate Judge recommends that this Court deny Petitioner's motion because of his failure to file his claim within the applicable one-year period of limitations contained in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). The Magistrate Judge filed the Report and Recommendation on November 29, 2005 and notified all the parties that any objections must be filed within ten days of service. Neither party has filed objections to the Report and Recommendation.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual

or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 236] is **ACCEPTED and ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Petitioner’s motion to vacate, set aside, or correct sentence [docket entry 226] is **DENIED**.

SO ORDERED.

Dated: February 2, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on February 3, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

James C. Mitchell, and I
hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Willie M. Mitchell.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
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